

1 AN ACT relating to elections.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 117.001 is amended to read as follows:

4 As used in this chapter, unless the context otherwise requires:

- 5 (1) "Audit log" means a detailed record of all actions and events that have occurred on
6 the voting system, including:
- 7 (a) Log-in attempts with username and time stamp;
 - 8 (b) Election definition and setup;
 - 9 (c) Ballot preparation and results processing;
 - 10 (d) Diagnostics of any type; and
 - 11 (e) Error and warning messages and operator response;
- 12 (2) "Automatic tabulating equipment" means apparatus necessary to automatically
13 examine and count votes as designated on ballots and data processing machines
14 which can be used for counting ballots and tabulating results;
- 15 (3) "Ballot" or "official ballot" means the official presentation of offices and candidates
16 to be voted for, including write-in candidates, and all public questions submitted for
17 determination, and shall include a voting machine ballot, a paper ballot, an absentee
18 ballot, a federal provisional ballot, a federal provisional absentee ballot, or a
19 supplemental paper ballot which has been authorized for the use of voters in any
20 primary, regular election, or special election by the Secretary of State or the county
21 clerk;
- 22 (4) "Ballot box" means any box, bag, or other container that can be locked, sealed, or
23 otherwise rendered tamper-resistant, for receiving ballots;
- 24 (5) "Ballot marking device" means any approved device for marking a ballot which
25 will enable the ballot to be tabulated manually or by means of automatic tabulating
26 equipment;
- 27 (6) "Election" or "elections" means any primary, regular election, or special election;

- 1 (7) "Election officer" has the same meaning as in KRS 118.015;
- 2 (8) "E-poll book" means an electronic device capable of holding a file of voter data and
3 related information for use in identifying registered voters prior to a voter's
4 receiving or casting a ballot, and allowing a voter to electronically sign in on an
5 electronic registered voter roster in lieu of signing a paper registered voter roster;
- 6 (9) "Federal provisional voter" means a person:
- 7 (a) Who does not appear to be registered to vote;
- 8 (b) Whose name does not appear on the precinct roster;
- 9 (c) Who has not provided proof of identification to the precinct election officer
10 before voting in a federal election; and
- 11 (d) Who elects to proceed with voting a federal provisional ballot under KRS
12 117.229;
- 13 (10) "Federal provisional ballot" or "federal provisional absentee ballot" means ballots
14 which have been authorized by the Secretary of State or the county clerk to be used
15 by federal provisional voters in any federal primary or election;
- 16 (11) "Inner envelope" or "secrecy envelope" means the envelope provided to the voter
17 with a ballot into which the voter shall place his or her voted ballot;
- 18 (12) "Political group" has the same meaning as in KRS 118.015;
- 19 (13) "Political organization" has the same meaning as in KRS 118.015;
- 20 (14) "Precinct ballot counter" means an automatic tabulating device used at the precinct
21 to tabulate and process ballots;
- 22 (15) "Proof of identification" means a document that was issued by:
- 23 (a) The United States or the Commonwealth of Kentucky, and the document
24 contains:
- 25 1. The name of the individual to whom the document was issued; and
26 2. A photograph of the individual to whom the document was issued;
- 27 (b) The United States Department of Defense, a branch of the uniformed services,

1 the Merchant Marine, or the Kentucky National Guard, and the document
2 contains:

- 3 1. The name of the individual to whom the document was issued; and
 - 4 2. A photograph of the individual to whom the document was issued;
- 5 (c) A public or private college, university, or postgraduate technical or
6 professional school located within the United States, and the document

7 contains:

- 8 1. The name of the individual to whom the document was issued; and
 - 9 2. A photograph of the individual to whom the document was issued; or
- 10 (d) Any city government, county government, urban-county government, charter
11 county government, consolidated local government, or unified local
12 government, which is located within this state, and the document contains:

- 13 1. The name of the individual to whom the document was issued; and
- 14 2. A photograph of the individual to whom the document was issued;

15 (16) "Risk-limiting audit" means *a manual tally of ballots for randomly-selected*
16 *portions of a county and randomly-selected races on those ballots. The random*
17 *selection shall be made by a public and manual random draw conducted with*
18 *random people performing each draw. No fewer than two (2) precincts or*
19 *machines, totaling votes from at least five percent (5%) of the county's voting*
20 *population for that election, shall be selected. Three (3) contested races shall be*
21 *selected, or all of the races on selected ballots if those ballots contain fewer than*
22 *three (3) contested races*~~[an audit protocol that makes use of statistical principles~~
23 ~~and methods and is designed to limit to acceptable levels the risk of certifying a~~
24 ~~preliminary election outcome that constitutes an incorrect outcome];~~

25 (17) "Voting booth" or "ballot completion area" means an area in which a voter casts his
26 or her vote or completes his or her ballot which is designed to ensure the secrecy of
27 the vote;

- 1 (18) "Vote center" means a consolidated precinct of the county;
- 2 (19) "Voting equipment" means any physical component of a voting system and
3 includes voting machines where voting machines are in operation;
- 4 (20) "Voting machine" or "machine":
- 5 (a) Means a part of a voting system that consists of:
- 6 1. A direct recording electronic voting machine that:
- 7 a. Records votes by means of a ballot display provided with
8 mechanical or electro-operated components that may be actuated
9 by the voter;
- 10 b. Processes the data by means of a computer program;
- 11 c. Records voting data and ballot images in internal and external
12 memory components; and
- 13 d. Produces a tabulation of the voting data stored in a removable
14 memory component and on a printed copy; or
- 15 2. One (1) or more electronic devices that operate independently or as a
16 combination of a ballot marking device and an electronic or automatic
17 vote tabulation device; and
- 18 (b) Does not include an e-poll book;
- 19 (21) "Voting system":
- 20 (a) Means the total combination of physical, mechanical, electromechanical, or
21 electronic equipment, including the software, hardware, firmware, and
22 documentation required to program, control, and support that equipment, that
23 is used to:
- 24 1. Define ballots;
- 25 2. Cast and count votes;
- 26 3. Report or display election results; and
- 27 4. Maintain and produce any audit trail information;

- 1 (b) Includes the practices and associated documentation used to:
- 2 1. Identify system components and versions of those components;
- 3 2. Test the system during its development and maintenance;
- 4 3. Maintain records of system errors and defects;
- 5 4. Determine specific system changes to be made to a system after the
- 6 initial qualification of the system;
- 7 5. Make available any materials to the voter, such as notices, instructions,
- 8 forms, or paper ballots; and

9 (c) Does not include an e-poll book; and

10 (22) "Voter-verified paper audit trail" means a contemporaneous paper record of a ballot

11 printed for the voter to confirm his or her votes before the voter casts his or her

12 ballot that:

- 13 (a) Allows the voter to verify the voter's ballot choices before the casting of the
- 14 voter's ballot;
- 15 (b) Is not retained by the voter;
- 16 (c) Does not contain individual voter information;
- 17 (d) Is produced on paper that is sturdy, clean, and resistant to degradation; and
- 18 (e) Is readable in a manner that makes the voter's ballot choices obvious to the
- 19 voter or any person without the use of computer or electronic code.

20 ➔Section 2. KRS 117.066 is amended to read as follows:

21 (1) The county board of elections may, pursuant to KRS 117.055 and subsection (3) of

22 this section, designate a single voting location for more than one (1) precinct if the

23 voting location is equipped with voting equipment capable of providing or

24 accepting separate ballots without endangering the integrity of the ballots or

25 without violating any other election law.

26 (2) If a single voting location for more than one (1) precinct is approved under

27 subsection (3) of this section, the primary or election shall be conducted as follows:

- 1 (a) One (1) voting equipment may be used for more than one (1) precinct if
2 ballots are tabulated for each separate precinct, and if separate ballots may be
3 placed upon any voting equipment to be used without endangering the
4 integrity of the ballots or without violating any other election law. Otherwise,
5 separate voting equipment shall be used for each precinct. In the instance of a
6 precinct which has a small number of voters such that the use of separate
7 voting equipment would be cost-prohibitive, the county clerk may make
8 application to the State Board of Elections to use supplemental paper ballots
9 under KRS 118.215 to conduct the voting for the small precinct on any
10 primary or election day. If the use of supplemental paper ballots is approved
11 by the State Board of Elections, at the close of voting on any primary or
12 election day, the locked supplemental paper ballot box shall be transported to
13 the county board of elections along with the federal provisional ballot
14 receptacle, and ballots shall be counted by the county board of elections as
15 provided by subsections (11) to (18) of Section 3 of this Act~~KRS~~
16 ~~117.275(10) to (16)]~~;
- 17 (b) Separate precinct voter rosters shall be maintained for each precinct, and steps
18 shall be taken to ensure that voters cast their ballot in their duly authorized
19 precinct; and
- 20 (c) A separate set of election forms and reports required by this chapter and the
21 State Board of Elections shall be maintained for each precinct.
- 22 (3) The county board of elections may petition the State Board of Elections to allow the
23 consolidation of precincts and the consolidation of precinct election officers at any
24 voting location where voters of more than one (1) precinct vote. The petition shall
25 be on a form prescribed by the State Board of Elections in administrative
26 regulations promulgated under KRS Chapter 13A and shall include:
- 27 (a) A list of all precincts designated to vote at the voting location;

- 1 (b) The address and type of facility of the voting location;
- 2 (c) The number and type of voting systems or voting equipment to be used at the
3 voting location;
- 4 (d) The number of registered voters in each precinct designated to vote at the
5 voting location;
- 6 (e) An explanation of the reasons why the consolidation is desirable;
- 7 (f) The plan for additional precinct officers at the voting location, the manner in
8 which they will be assigned, and whether the voting location will be fully
9 staffed with election officials;
- 10 (g) The plan for how the county clerk will publicize the location for where the
11 voting shall occur, in addition to how each location shall be noted
12 conspicuously to residents of the county as a "Vote Center"; and
- 13 (h) The plan for how the voting location will serve as a focal point to meet the
14 needs of a diverse community.
- 15 (4) If the petition submitted under subsection (3) of this section is approved by the
16 State Board of Elections, the precinct election officers designated to serve as
17 election officers for more than one (1) precinct shall meet the eligibility
18 requirements of KRS 117.045.
- 19 ➔Section 3. KRS 117.275 is amended to read as follows:
- 20 (1) At the count of the votes in any precinct, any candidate or slate of candidates and
21 any representatives to witness and check the count of the votes therein, who are
22 authorized to be appointed as is provided in subsection ~~10(9)~~ of this section, shall
23 be admitted and permitted to be present and witness the count.
- 24 (2) As soon as the polls are closed, and the last voter has voted, the judges at that time
25 shall immediately lock and seal the voting equipment so that the voting and
26 counting mechanisms will be prevented from operating, and they shall sign a
27 certificate stating:

- 1 (a) That the voting equipment has been locked against voting and sealed;
- 2 (b) The number of voters, as shown on the public counters;
- 3 (c) The number registered on the protective or cumulative counter or device; and
- 4 (d) The number or other designation of the voting equipment.

5 The certificate, with any additional certificate previously prepared under KRS
6 117.035, shall be returned by the judges of election to the officials authorized by
7 law to receive it. The judges shall compare the number of voters, as shown by the
8 counter of the voting equipment, with the number of those who have voted as
9 shown by the protective or cumulative counter or device.

10 (3) Where voting equipment is used which does not print the candidates' names along
11 with the total votes received on a general return sheet or record for that equipment,
12 the procedure to be followed shall be as follows:

- 13 (a) The judges, in the presence of the representatives mentioned in subsection (1)
14 of this section, if any, and of all other persons who may be lawfully within the
15 polling place, shall give full view of all the counter numbers;
- 16 (b) The judges shall enter, in ink, the total votes cast for each candidate, and slate
17 of candidates, and for and against each question on the return sheets; and
- 18 (c) Each precinct election officer shall sign the return sheets, and a copy of the
19 return sheets shall be posted on the precinct door.

20 (4) Where voting equipment is used that prints the candidates' names along with the
21 total votes received on a return sheet or record for that equipment, the precinct
22 election officers shall sign the return sheets or record for the voting equipment,
23 which shall be posted on the door of the precinct.

24 (5) If any officer shall decline to sign the return sheets, he or she shall state the reason
25 in writing, and a copy thereof, signed by the officer, shall be enclosed with the
26 return sheets.

27 (6) Each of the return sheets, if applicable, and the record of the voting equipment shall

1 be enclosed in an envelope. One (1) copy of the return sheets, if applicable, one (1)
2 copy of the record of the voting equipment, and the write-in roll, if any write-in
3 votes were cast in the precinct, shall be directed to the county board of elections of
4 the county in which the election is being held. One (1) copy of the return sheets or
5 record of the voting equipment shall be given to the county clerk of the county in
6 which the election is being held and to each of the local governing bodies of the two
7 (2) dominant political parties, but a local governing body of a dominant political
8 party may decline a copy of the precinct election return by filing a written
9 declination with the county board of elections prior to the election, and upon this
10 declination, a printed copy shall not be issued to the political party so declining.
11 The declination on file shall be effective for that election and any subsequent
12 elections until revoked by the local governing body of a dominant political party by
13 filing a written revocation with the county board of elections. The envelope shall
14 have endorsed thereon a certificate of the election officers, stating the number or
15 unique designation of the voting equipment, the precinct where it has been used, the
16 number on the seal, and the number on the protective or cumulative counter or
17 device at the close of the polls.

18 (7) During the period established by KRS 117.355(3), and following the tabulation of
19 all votes cast in the election, including absentee votes and write-in votes:

20 (a) The county board of elections shall mail, transmit via facsimile machine,
21 hand-deliver, or submit by electronic means a copy of the precinct-by-precinct
22 summary of the tabulation sheets showing the results from each precinct to the
23 State Board of Elections. The copy of the precinct-by-precinct summary of the
24 tabulation sheets showing the results from each precinct shall include the
25 votes cast on the day of an election and during in-person absentee voting; and

26 (b) The county clerk shall mail or deliver the precinct signature rosters from each
27 precinct and the in-person absentee ballot signature roster to the State Board

1 of Elections.

2 (8) For each voting location, as soon as possible after the completion of the **tabulation,**
 3 **a count for certification shall be initiated.**~~count, the~~ Two (2) election officers

4 who are not of the same political affiliation shall:

5 **(a) Open the box of cast ballots and sort the ballots into lots of fifty (50) or one**
 6 **hundred (100), along with one (1) partial lot for the remainder of ballots**
 7 **less than the lot size;**

8 **(b) Tabulate for each lot the number of votes received by each candidate and**
 9 **the number of votes for and against each public question, and complete a**
 10 **tally sheet for each lot;**

11 **(c) After both election officers have completed a tally for an individual lot,**
 12 **compare both tallies. If the tallies are identical, the election officers shall**
 13 **certify the tally sheet as complete; and**

14 **(d) If tallies of both election officers for an individual lot are not identical, tally**
 15 **a second time separately and record the tally on a new tally sheet. If the**
 16 **tallies are then identical, the election officers may discard the initial tally**
 17 **sheet and certify the second tally sheet as complete. If the tally is not then**
 18 **identical, the lot shall be referred to the county board of elections in**
 19 **accordance with subsection (16) of this section.**

20 **(9) After all ballots are tallied and counted, the election officers shall** return to the
 21 county board of elections the keys to the voting equipment received and receipted
 22 for by them, and the county clerk, in each voting location, shall have the voting
 23 equipment properly boxed or securely covered and removed to a proper and secure
 24 place of storage.

25 ~~(10)~~⁽⁹⁾ In primaries, each candidate or group of candidates may designate to the
 26 county board of elections a representative to witness and check the vote count. In
 27 regular elections, the governing authority of each political party, each candidate for

1 member of board of education, nonpartisan candidate, political group candidate,
2 political organization candidate, independent candidate, or independent ticket may
3 designate a representative to the county board of elections to witness and check the
4 vote count. The county board of elections shall authorize representatives of the
5 news media to witness the vote count.

6 (11)~~[(10)]~~ For all federal provisional ballots, if applicable, and supplemental paper
7 ballots if approved as provided in KRS 118.215, after the polls are closed, the two
8 (2) judges shall return to the county clerk's office the locked federal provisional
9 ballot receptacle and the supplemental paper ballot box, all ballot stubs, spoiled
10 ballots, and unvoted ballots at the same time as the tabulation of votes from the
11 voting equipment is delivered. The county clerk shall issue a receipt for the number
12 of ballot stubs, unvoted ballots, spoiled ballots, and the ballot boxes or ballot
13 receptacle.

14 (12)~~[(11)]~~ The county board of elections, or its designee, shall count and tally the
15 supplemental paper ballots ~~[that have not been tabulated by automatic tabulating~~
16 ~~equipment at the precinct, either]~~ manually~~[or with the use of tabulating equipment~~
17 ~~that has been certified by the State Board of Elections for use for that purpose in the~~
18 ~~county clerk's office]~~. The results of the vote tally shall be certified by the county
19 board of elections to the county clerk and to the Secretary of State.

20 (13)~~[(12)]~~ The county board of elections shall tabulate the valid federal provisional
21 ballots. The results of the vote tally shall be certified by the county board of
22 elections to the county clerk and to the Secretary of State. The county board of
23 elections shall mail a copy of the precinct-by-precinct summary of the valid federal
24 provisional ballot tabulation sheets showing the results from each precinct to the
25 State Board of Elections.

26 (14)~~[(13)]~~ The county board of elections shall authorize the candidates, slates of
27 candidates, or their representatives, and representatives of the news media to be

1 present during the counting of the supplemental and federal provisional paper
2 ballots.

3 ~~(15)~~~~(14)~~ No person shall transmit or publicize any tallies or counts of ballots, or any
4 partial results, to any person except those persons, election officials, or entities
5 authorized by law to receive it, until 6 p.m. prevailing time on the day of a primary
6 or an election.

7 ~~(16)~~~~(15)~~ (a) *Election results shall not be certified by the county board of elections*
8 *without an exact match of voter tallies and ballot cast tallies. To certify, the*
9 *county board of elections shall compare the tallies of voters and compare*
10 *with the tallies of cast ballots, including spoiled ballots, federal provisional*
11 *ballots, and supplemental provisional ballots.*

12 (b) *If the tallies between voters and ballots are an exact match, the results shall*
13 *be certified by the county board of elections to the county clerk and the*
14 *Secretary of State as the official result of the election.*

15 (c) *If the tallies between voters and ballots or among ballots are not an exact*
16 *match, the county board of elections shall:*

17 *1. File a report with the local grand jury in accordance with KRS*
18 *117.355;*

19 *2. Keep all the tally sheets, papers, or notes in accordance with*
20 *subsection (18) of this section; and*

21 *3. Recommend to the State Board of Elections to certify the election in*
22 *net result only if the difference in tallied votes exceeds the number of*
23 *discrepancy within a contest or if the contest is unopposed, or to*
24 *request resources for further investigation by the board.*

25 *When the certification of the tally sheets are complete, the election clerk*
26 *shall publicly announce the results and shall, on demand of any candidate*
27 *or any person present, furnish a certified copy of the results. The certificate*

1 *shall include the names of all candidates appearing on the ballot, and shall*
 2 *be signed by the officer of elections and the precinct judges who performed*
 3 *the tallies, and may be used as evidence in a court of competent*
 4 *jurisdiction* ~~[Unofficial election results transmitted online to the county board~~
 5 ~~of elections or the State Board of Elections shall occur by means of a secure~~
 6 ~~online connection after results are tallied on the tally computer that has been~~
 7 ~~certified in accordance with KRS 117.379 as part of a voting system as~~
 8 ~~defined in KRS 117.001.~~

9 ~~(b) If an external device is used to upload election results for the subsequent~~
 10 ~~transmission, the device shall be used for that primary or election only and be~~
 11 ~~of a type approved by the State Board of Elections as part of a voting system~~
 12 ~~under KRS 117.379. The upload of the election results shall occur in the~~
 13 ~~presence of two (2) members of the county board of elections who are of a~~
 14 ~~different political affiliation].~~

15 ~~(17)~~ ~~(16)~~ *A voting system shall not be physically unattended between the close of any*
 16 *election and the certified results.*

17 **(18)** Except as otherwise required in this chapter, all records and papers relating to
 18 specified elections shall be retained for twenty-two (22) months, and the county
 19 clerk shall retain the voted federal provisional ballots, voter affirmations, election
 20 official affirmations, and the supplemental paper ballots for twenty-two (22)
 21 months and the unvoted federal provisional ballots, the voter affirmations, election
 22 official affirmations, and the supplemental paper ballots for sixty (60) days after
 23 each election day, after which time they shall be destroyed in a manner to render
 24 them unreadable by the county board of elections if no contest or recount action has
 25 been filed.

26 ➔ Section 4. KRS 117.295 is amended to read as follows:

27 (1) For a period of thirty (30) days following any election, the voting equipment shall

1 remain locked against voting, the ballot boxes containing all paper ballots shall
2 remain locked, and the voting equipment and ballot boxes shall be under video
3 surveillance. The system used to conduct the video surveillance shall have enough
4 storage capacity to retain sixty (60) consecutive days of continuous recording data.
5 The voting equipment and the ballot boxes may be opened and all the data and
6 figures therein examined:

- 7 (a) Upon the order of any court of competent jurisdiction, or judge thereof;
- 8 (b) By direction of any legislative committee or board authorized and empowered
9 to investigate and report upon contested elections;
- 10 (c) By a county board of elections *in the process of certification or* under the
11 direction of the State Board of Elections pursuant to a risk-limiting audit; or
- 12 (d) As required to conduct a recount under KRS 120.157.

13 All the data and figures shall be examined by the court, judge, county board of
14 elections, State Board of Elections, or committee in the presence of the officer
15 having the custody of the voting equipment, ballots, and ballot boxes. In the event
16 of a contest of election, the court in which the contest is pending or the committee
17 before which the contest is being heard may, upon motion of any party to the
18 contest, issue an order requiring that the voting equipment, ballots, and ballot boxes
19 shall remain continuously locked for further time as may be reasonable or
20 necessary, with due regard for the preparation of the voting equipment for a
21 succeeding primary, regular election, or special election, but in no event shall the
22 order compel that the voting equipment remain locked to a time within thirty (30)
23 days next preceding any approaching primary, regular election, or special election.

24 (2) During the period when the voting equipment and the ballot boxes are required to
25 be kept locked, the keys thereto shall remain in the possession of the county board
26 of elections. After that period, it shall be the duty of the county board of elections to
27 return the keys to the custody of the county clerk.

1 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) After the polls are closed, a risk-limiting audit shall be performed. If the risk-
4 limiting audit matches the tallies of voters, ballots, and machines, the election
5 shall be eligible for certification. If the comparisons do not match, then a full
6 recount shall be conducted to certify the election results.

7 (2) Any risk-limiting audit shall be paid for by the State Board of Elections.
8 However, a full recount of ballots shall be billed to the vendor of any machine
9 used that requires a recount.